

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 1771.

(Given pursuant to section 4 of the Food and Drugs Act.)

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### ADULTERATION AND MISBRANDING OF ALLEGED MARASCHINO CHERRIES.

On August 4, 1911, the United States Attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one barrel of alleged maraschino cherries remaining unsold in the original unbroken packages and in possession of the McFadden Candy Co., St. Paul, Minn., alleging that the product had been shipped on or about May 8, 1911, by Mihalovitch Bros., Cincinnati, Ohio, and transported from the State of Ohio into the State of Minnesota, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Whole Cochineal Maraschino Cherries. Contain less than one tenth of one per cent Benzoate of Soda. Artificially colored. Guaranteed by the packers to comply with the National Pure Food and Drugs Act, June 30, 1906."

Adulteration was alleged in the libel for the reason that the product had been packed and mixed with a substance, to wit, a sugar syrup, which had been substituted wholly or in part for genuine maraschino liquor, and which said substituted substance reduced, lowered, and injuriously affected the quality and strength of the product. Misbranding was alleged for the reason that the product was an imitation of and offered for sale under the distinctive name of another article, to wit, genuine maraschino cherries, which had been packed and mixed with genuine maraschino liquor and were not maraschino cherries, but in truth and in fact were an imitation product.

On March 6, 1912, the Bettman-Johnson Co., Cincinnati, Ohio, claimants, having consented to a decree, judgment of condemnation and forfeiture was entered; and it was further ordered that, upon payment of all costs of the proceeding and the execution of bond in the sum of \$100 by said claimant, in conformity with section 10 of the Act, the product should be released and delivered to the claimant.

W. M. HAYS,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *September 18, 1912.*